

2009 DRAFTING REQUEST

Senate Amendment (SA-SA1-SB2)

Received: **02/09/2009**

Received By: **gmalaise**

Wanted: **02/10/2009**

Identical to LRB:

For: **John Lehman (608) 266-1832**

By/Representing: **Mike Browne**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - wage claims**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lehman@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Wage claim lien priority; cap at federal bankruptcy amount

Instructions:

See attached--increase cap on wage claim lien priority to federal bankruptcy amount, currently \$10,950, then index for inflation

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 02/09/2009	jdyer 02/10/2009		_____			
/1			jfrantze 02/10/2009	_____	sbasford 02/10/2009	sbasford 02/10/2009	
/2	gmalaise 02/10/2009	nnatzke 02/10/2009	rschluet 02/10/2009	_____	lparisi 02/10/2009	lparisi 02/10/2009	

FE Sent For:

<END>

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/1		nwn 2/2/10	jfrantze 02/10/2009		sbasford 02/10/2009	sbasford 02/10/2009	

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/?	gmalaise	1 2/10 jld		7/3/09 A 10			

FE Sent For:

<END>

Malaise, Gordon

From: Whitesel, Russ
Sent: Thursday, February 05, 2009 4:06 PM
To: Malaise, Gordon
Subject: Federal Wage Lien Limits

https://ecf.almb.uscourts.gov/USBC/auto_adjust_dollar_amt_code.pdf

11 USC 507(a)(4) ~~and~~ ~~any~~.

Total limit: \$10,950. (adjusted 4/1/07, due to be adjusted again 4/1/09.)

fyi. russ

11 USC 104 (b)(1)

but provide for our own indexing,

not Federalized

(like SSAI to SBI)



Notice



March 27, 2007

SUBJECT: Automatic Adjustment of Certain Dollar Amounts in the Bankruptcy Code and Official Bankruptcy Forms

On April 1, 2007, automatic adjustments to the dollar amounts stated in various provisions of the Bankruptcy Code and one provision of Title 28 of the United States Code will become effective.

The amended dollar amounts will apply to cases filed on or after April 1, 2007. The amended dollar amounts will affect, among other matters, the eligibility of a debtor to file under chapters 12 and 13 of the Bankruptcy Code, certain maximum values of property that a debtor may claim as exempt, the maximum amount of certain claims entitled to priority, the calculation of the "means test" for chapter 7 debtors, the duration of a chapter 13 plan, the definition of a small business debtor, the minimum aggregate value of claims needed to commence an involuntary bankruptcy, the value of "luxury goods and services" deemed to be nondischargeable, and the location where the trustee may commence certain proceedings to recover a money judgment or property. In the Bankruptcy Reform Act of 1994, as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Congress provided for the automatic adjustment of these dollar amounts at three-year intervals. A chart is attached showing the affected sections of the Bankruptcy Code and Title 28 and both the current and the revised dollar amounts in those sections. Please note that Alabama is an opt-out state as to exemptions applicable under § 522.

Seven of the Official Bankruptcy Forms contain references to several of the affected dollar amounts:

- Official Form 1, Voluntary Petition
- Official Form 6C, Schedule of Property Claimed as Exempt
- Official Form 6E, Schedule of Creditors Holding Claims Entitled to Priority
- Official Form 7, Statement of Financial Affairs
- Official Form 10, Proof of Claim
- Official Form 22A, Statement of Current Monthly Income and Means Test calculation (Chapter 7)
- Official Form 22C, Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income (Chapter 13)

These forms will be amended April 1, 2007, and will apply to cases filed on or after that date. Excerpts of the amended forms with the changes indicated are also attached. The revised forms incorporating the changes will be posted to the bankruptcy forms pending amendment page of the Judiciary's website at www.uscourts.gov/bankform/index.html as well as the forms page of the Middle District's website at www.almb.uscourts.gov/Forms/index.htm.

Richard S. Oda
Clerk of Court

Title 11, U.S.C.	Dollar Amount to be Adjusted	New (Adjusted) Dollar Amount
-------------------------	-------------------------------------	-------------------------------------

Section 507(a) - priority expenses and claims		
(1) - in paragraph (4)	\$10,000	\$10,950
(2) - in paragraph (5)	\$10,000	\$10,950
(3) - in paragraph (6)	\$4,925	\$5,400
(4) - in paragraph (7)	\$2,225	\$2,425
Section 522(d) - value of property exemptions allowed to the debtor		
(1) - in paragraph (1)	\$18,450	\$20,200
(2) - in paragraph (2)	\$2,950	\$3,225
(3) - in paragraph (3)	\$475	\$525
	\$9,850	\$10,775
(4) - in paragraph (4)	\$1,225	\$1,350
(5) - in paragraph (5)	\$975	\$1,075
	\$9,250	\$10,125
(6) - in paragraph (6)	\$1,850	\$2,025
(7) - in paragraph (8)	\$9,850	\$10,775
(8) - in paragraph (11)(D)	\$18,450	\$20,200
522(f)(3) - exception to lien avoidance under certain state laws	\$5,000	\$5,475
522(f)(4)- items excluded from definition of household goods for lien avoidance purposes	\$500 (each time it appears)	\$550 (each time it appears)

In re _____
Debtor

Case No. _____
(if known)

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. Use a separate continuation sheet for each type of priority and label each with the type of priority.

The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m).

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Report the total of amounts entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts who file a case under chapter 7 or 13 report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Report the total of amounts not entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts not entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts who file a case under chapter 7 report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

☐ Domestic Support Obligations

Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).

☐ Extensions of credit in an involuntary case

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(3).

☐ Wages, salaries, and commissions

\$10,950

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to ~~\$10,000~~ per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ Contributions to employee benefit plans

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).



State of Wisconsin
2009 - 2010 LEGISLATURE

9:00 AM - Floor

LRBa0052/1

GMM:...

jld

SENATE AMENDMENT ,
TO SENATE AMENDMENT 1,
TO 2009 SENATE BILL 2

1 At the locations indicated, amend the amendment as follows:

2 1. Page 2, line 22: delete that line and substitute:

3 (("SECTION 8d. 109.09 (2) (c) 1. ag. of the statutes is created to read:

4 109.09 (2) (c) 1. ag. "Consumer price index" means the average of the consumer
5 price index over each 12-month period for all urban consumers, U.S. city average,
6 as determined by the bureau of labor statistics of the U.S. department of labor.

7 SECTION 9d. 109.09 (2) (c) 1m. of the statutes is amended to read:.

8 2. Page 3, line 1: delete "subd." and substitute "subd. subds. 1r. and".

9 3. Page 3, line 11: after that line insert:

10 "SECTION 9m. 109.09 (2) (c) 1r. of the statutes is created to read:

11 109.09 (2) (c) 1r. Except as provided in this subdivision, a lien under par. (a)
12 does not take precedence over a lien of a commercial lending institution against the

1 employer that is perfected before the lien under par. (a) is perfected. Subject to subds.
2 2. and 3., a lien under par. (a) takes precedence over a lien of a commercial lending
3 institution against the employer that is perfected before the lien under par. (a) is
4 perfected only as to the first \$10,950 or an amount determined by the department
5 under subd. 4. of unpaid wages covered under the lien that are earned by an employee
6 within the 6 months preceding the date on which the employee or collective
7 bargaining representative files the wage claim under sub. (1) or brings the action
8 under s. 109.03 (5) or the date on which the department receives the wage claim
9 under s. 109.10 (4) (a), whichever is applicable.”.

10 4. Page 4, line 10: delete “subd.” and substitute “subd. subds. 1r. and”.

11 5. Page 4, line 17: delete “subd.” and substitute “subd. subds. 1r. and”.

12 6. Page 4, line 20: delete “is perfected.” and substitute “is perfected”.

13 7. Page 4, line 21: before that line insert:

14 “SECTION 11m. 109.09 (2) (c) 4. of the statutes is created to read:

15 109.09 (2) (c) 4. Beginning on January 1, 2011, the department shall annually
16 adjust the amount specified in subd. 1r. by calculating the percentage difference
17 between the consumer price index for the 12-month period ending on June 30 of the
18 preceding year and the consumer price index for the 12-month period ending on June
19 30, 2009, and adjusting that amount by that percentage difference. Notwithstanding
20 s. 227.10 (1), the department need not promulgate those annual adjustments as rules
21 under ch. 227. An adjusted amount under this subdivision shall first apply to a lien
22 under par. (a) that takes effect on January 1 of the year in which the adjustment is
23 made. This subdivision does not apply if the consumer price index for the 12-month

1 period ending on June 30[✓] of the current year has not increased over the[✓] consumer
2 price index for the[✓] 12-month period ending on[✓] June 30 of the preceding year.”.”[✓]

3 (END)

d-note
↓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa0052/1dn

GMM: ^...

date

jld

Mike:

In case you need it, this amendment raises the cap on an employee's wage claim lien to \$10,950 in accordance with the current bankruptcy cap and then indexes that cap to inflation thereafter.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa0052/1dn
GMM:jld:jf

February 10, 2009

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In case you need it, this amendment raises the cap on an employee's wage claim lien to \$10,950 in accordance with the current bankruptcy cap and then indexes that cap to inflation thereafter.

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Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

00052

Mike

6 mo look back

P 2, 1 6

eliminate 6 months



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa0052/t
GMM:jld:jf

2
RMR

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TO SENATE AMENDMENT 1,
TO 2009 SENATE BILL 2

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